

ORIGINAL

FILED

August 2 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Cause No. DA 10-0142

David K. W. Wilson, Jr.
Attorney for Plaintiffs/Appellants
Reynolds, Motl & Sherwood, PLLP
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STATE OF MONTANA

KATHY HEFFERNAN, ROBIN CAREY,
DAVID HARMON, and NORTH DUNCAN DRIVE
NEIGHBORHOOD ASSOCIATION, INC.,

Plaintiffs, Petitioners, Appellees,

v.

MISSOULA CITY COUNCIL, CITY OF MISSOULA,
and JOHN ENGEN, Mayor,

Defendants, Respondents, and Appellants,

v.

MUTH-HILLBERRY, L.L.C.,

Intervenor-Defendant and Appellant.

**PLAINTIFFS/APPELLEES' UNOPPOSED MOTION
FOR EXTENSION OF TIME**

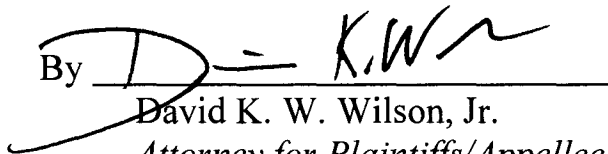
Pursuant to Rule 26, Mont. Rules of Civ. Proc., the
Plaintiffs/Appellees herein move for an extension of time in which to file
their Response Brief. In consultation with opposing counsel, Appellees also

propose a date for Appellants' Reply Briefs. Appellees propose that their Response Brief, which is currently due on August 13, 2010, now be due on *Friday, September 24, 2010*; and that Appellants' Reply Brief be due on *Friday, October 22, 2010*.

Opposing counsel Donald Snavely and Jim Nugent have been contacted concerning this Motion and do not object to it. This Motion is accompanied, as required by Rule 26 (2), by an affidavit and by a proposed order.

DATED this 30th day of July, 2010.

REYNOLDS, MOTL & SHERWOOD, PLLP

By 
David K. W. Wilson, Jr.
Attorney for Plaintiffs/Appellees

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of July, 2010, I have filed a true and accurate copy of the foregoing document with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing document upon the following:

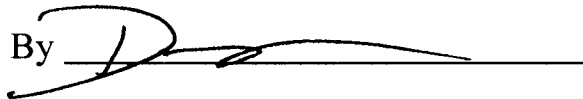
Donald V. Snavely
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P.O. Box 16570
Missoula, MT 59808

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Matthew Bishop
Western Environmental Law Center
P.O. Box 7435
Missoula, MT 59807

By



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v.

MUTH-HILLBERRY, L.L.C.,

Intervenor-Defendant and Appellant.

AFFIDAVIT OF DAVID K. W. WILSON, JR.

STATE OF MONTANA)
 : ss.
County of Lewis and Clark)

I, David K. W. Wilson, Jr., being first duly sworn, attests and states as follows:

1. I am the counsel for Plaintiffs/Appellees in this case.
2. I am submitting this Affidavit to comply with Rule 26 (2),

Mont. Rules of Civ. Proc.

3. Appellees filed their Opening Briefs on July 14, 2010, after being granted one 30-day extension pursuant to Rule 26 (1).

4. Pursuant to Rule 26 (2), here are the reasons we seek this extension:

- a. The Response Brief is currently due August 13, 2010.
- b. August 13th is the first brief deadline for Plaintiffs/Appellees in this case.
- c. Plaintiffs/Appellees request that they be given until September 24, 2010 to file their Response, which is 40 days beyond when it would currently be due.


d & e. I received the Opening Briefs on July 15, 2010 while I was in the first day of a two-day trial/hearing in Bozeman on a zoning case (*Gateway Opencut Mining Action Group v. Board of County*

Commissioners, 18th Judicial District Cause DV-10-480C). I have been involved much of the subsequent two weeks in preparing proposed findings of fact and conclusions of law for the Court in that case. Additionally, I am going to be out of the office on a previously planned family vacation August 8-12, 2010, and believe I have a substantial need for the extension. In arriving at the September 24th date (instead of the 30 day extension allowed under Rule 26 (1)), I took into account a summary judgment hearing in *MEIC v. DEQ*, 15th Judicial District Cause No. DV-08-10896), scheduled for August 23, 2010, and a two-day trial scheduled in Kalispell in *Ogrin v. Whitney*, 11th Judicial District Cause No. DV 03-261 (c), scheduled for the Court's term beginning September 13, 2010; as well as Appellant Missoula's counsel's schedule in October. I will file the brief in the time allowed by the Court.

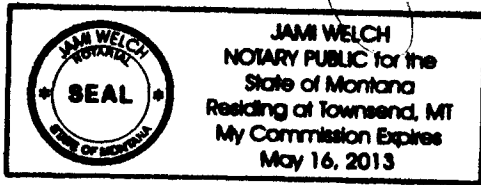
f. As noted, I have consulted with both opposing counsel and have put together this proposed extension schedule with their concurrence.

Further affiant sayeth not.

DATED this 30th day of July, 2010.

By 
David K. W. Wilson, Jr.

On this 30 day of July, 2010, before me, a notary public,
personally appeared David K. W. Wilson, Jr., known to me to be the person
whose name is subscribed to the within instrument, and acknowledged to me
that he executed the same.



CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of July, 2010, I have filed a
true and accurate copy of the foregoing document with the Clerk of the
Montana Supreme Court; and that I have served true and accurate copies of
the foregoing document upon the following:

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A handwritten signature, likely of the notary public, is written over a horizontal line.